

March 18, 2003 CPC



STAFF'S  
REQUEST ANALYSIS  
AND  
RECOMMENDATION

03PW0247

The Great Big Greenhouse  
(The Great Big Greenhouse)

Midlothian Magisterial District  
2051 Huguenot Road

REQUEST: Waiver of Development Standards

The applicant is requesting a waiver to the following development standards of the Zoning Ordinance:

Section 19-514(d)(1): Design standards for off-street parking. Specifically, the applicant is requesting a waiver to parking lot standards for paving for a period of two (2) years.

Specific language of Section 19-514(d)(1) is included in the background section of this report.

RECOMMENDATION

Staff recommends denial of the request for the following reasons:

1. It is staff's opinion that the applicant has not adequately addressed the five (5) factors required to be considered by the Planning Commission in its determination of waivers of development standards.
2. It is staff's opinion that the principal reason for the request is an ordinary financial consideration.

## GENERAL INFORMATION

### Associated Public Hearing Cases:

74SN0157 - Consolidated Sales Company, Inc.

### Developer:

The Great Big Greenhouse

### Location:

Lying approximately 500 feet south of the intersection of Robious and Huguenot Roads.  
Tax ID 740-713-9393 (Sheets 2 and 6).

### Existing Zoning and Land Use:

C-3; Commercial

### Size:

9.31 acres

### Adjacent Zoning and Land Use:

North - C-3; Commercial  
South - R-7; Multi-family residential  
East - C-2; Commercial and A; vacant  
West - C-3; Commercial

## BACKGROUND

The Great Big Greenhouse site plan (01PR0213) was approved on December 12, 2001. The approved site plan included two (2) phases of construction. The Phase II parking area, consisting of fifty (50) spaces, was graveled with curb and gutter during Phase I construction. At the time of the occupancy inspection, the Planning Department instructed the applicant to cordon off the gravel area and not to use it until either a waiver is granted or the paving is completed as shown on the approved site plan. Paving is required for off-street parking by Section 19-514(d)(1) of the Chesterfield County Zoning Ordinance:

### **Section 19-514. Design standards for off-street parking.**

#### **(d) Surface treatment:**

- (1) With the exception of: (i) single-family residential and farm uses;
- (ii) areas where track-mounted equipment is stored or displayed; (iii) property in I-2 and I-3 Districts; or (iv) areas for the storage of customer

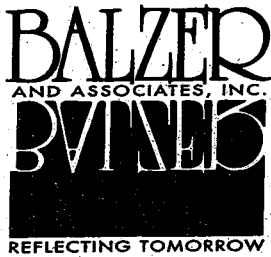
vehicles in motor vehicle storage/towing lots, driveways and parking areas shall be paved with concrete, bituminous concrete or other similar material. Except in I-2 and I-3 Districts, surface-treated parking areas and drives shall be prohibited. Areas where track mounted equipment is stored or displayed and areas for the storage of customer vehicles in motor vehicle storage/towing lots shall have a minimum surface of six inches of No. 21 or No. 21A stone.

It is staff's opinion that the applicant has not adequately addressed the five (5) factors required to be considered by the Planning Commission in its determination of waivers of development standards (reference attached Section 19-19). Staff believes compliance with the development standard does not restrict use of the property; a waiver would constitute a special privilege because all other properties must comply with the standard; and the resulting dust could adversely impact neighboring businesses and property.

Section 19-19(e)(1-4) cites specific circumstances whereby the Planning Commission shall not grant modifications to development standards. These include ordinary financial considerations as the principal reasons for the request; and conditions created by the applicant, which generate the need for the waiver. It is staff's opinion that the principal reason for the request is an ordinary financial consideration, and the applicant created the situation generating the need for the waiver.

### CONCLUSIONS

Staff recommends denial of the request because the applicant has not adequately addressed the five (5) factors required to be considered by the Planning Commission in its determination of waivers of development standards. It is staff's opinion that the principal reason for the request is an ordinary financial consideration.



January 21, 2003

Mr. Greg Allen  
Chesterfield County  
Planning Department  
9901 Lori Road  
P.O. Box 40  
Chesterfield, Virginia 23832

Dear Mr. Allen,

Mr. Doug Hensel, President of The Great Big Greenhouse and Nursery, is requesting a standard development waiver to the requirement that all parking areas within their site be curbed and paved, for a period of two years. This area in question is the Phase II parking area as shown on the approved site plans for The Great Big Greenhouse (Co. Site Plan #01pr0213). The owner's of the property would like to utilize their Phase II parking area for employee and overflow parking, while only applying the gravel stone base. This parking would be temporarily used during peak season times, while remaining empty during off season times. In requesting this waiver, the five factors for allowing a development standard waiver were considered. The responses to the five factors are as follows:

1. Due to the uniqueness of this use, the parking requirements are such that during short periods during the year additional, temporary overflow parking is needed. The condition is temporary in nature and does not justify installing a permanent parking area at this time.
2. The granting of this modification to the development standard will alleviate a clearly demonstrable hardship as distinguished from a special privilege or convenience. Due to the nursery / greenhouse use, this owner experiences very high customer volumes during short periods, unlike other uses in this area. These short, high volume periods are generally not experienced by other uses in the area that have a more uniform business cycle.

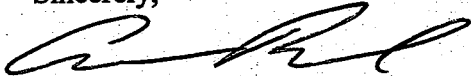
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3. The modification will not be injurious to the use and enjoyment of adjacent owners; will not diminish property values within the area; will not change the character of the district; and will not be detrimental to or endanger the public health, safety or general welfare. This parking area is away from the main public right-of-way and not visible from the roadways. The adjacent owners will benefit from this gravel parking area due to the fact that during peak season times, parking does not overflow on their properties. In addition, the overflow parking provided will help alleviate the stress level of customers searching for parking spaces, making the area safer for pedestrians.
4. The situation of the property and intended use is not of so general or recurring a nature as to make reasonably practicable the formulation of a general regulation to be adopted as an amendment in the zoning ordinance. This is a unique situation and is not foreseen as a recurring issue in this area as this is a temporary use.
5. The project will still comply with the comprehensive plan for this area if the standard development waiver to allow the gravel parking area is granted.

With the findings to the five factors, Mr. Hensel feels that the standard development waiver should be granted.

Sincerely,



Aaron D. Breed, P.E.  
Balzer and Associates  
(Representatives for the owner)

Cc: Mr. Doug Hensel  
Mr. Daniel Gecker  
Mr. Edward Barber

AN ORDINANCE TO AMEND THE CODE OF THE COUNTY  
OF CHESTERFIELD, 1978, AS AMENDED, BY AMENDING  
AND REENACTING SECTION 19-19 RELATING TO  
MODIFICATIONS TO DEVELOPMENT STANDARDS AND REQUIREMENTS

BE IT ORDAINED by the Board of Supervisors of Chesterfield County:

- (1) *That Section 19-19 of the Code of the County of Chesterfield, 1978, as amended, is amended and reenacted to read as follows:*

Sec. 19-19. Planning commission may grant modifications to development standards and requirements.

(a) Except for those development standards or requirements which must be modified by the granting of a variance, special exception, conditional use or a rezoning, the planning commission may grant modifications, with or without conditions, to development standards or requirements specified in this chapter. The planning commission shall fix a reasonable time for the hearing of an application under this section and decide the same within 60 days after its first hearing on the matter, unless the applicant requests or consents to action beyond such time or unless the applicant withdraws the request.

(b) No modification to a development standard or requirement shall be authorized by the planning commission unless it considers and determines substantial compliance with all of the following factors:

- (1) By reason of the exceptional narrowness, shallowness, size or shape of the specific piece of property or nearby properties or by reason of exceptional topographic conditions or other exceptional situation or condition relating to such properties the strict application of the terms of this chapter would effectively prohibit or unreasonably restrict the use of the property.
- (2) The granting of the modification will alleviate a clearly demonstrable hardship as distinguished from a special privilege or convenience, and the hardship is not shared generally by other properties in the same zoning district and the same vicinity.
- (3) The modification will not be injurious to the use and enjoyment of adjacent property owners; will not diminish or impair property values within the neighborhood; will not change the character of the district; and will not be detrimental to or endanger the public health, safety or general welfare.
- (4) The condition or situation of the property concerned or the intended use of the property is not of so general or recurring a nature as to make reasonably practicable the formulation of a general regulation to be adopted as an amendment to this chapter.

- (5) The granting of such modification will allow the project to comply with the comprehensive plan.

(c) In authorizing a modification, the planning commission may impose conditions regarding the location, character and other features of the proposed building, structure or use as it may deem necessary to the public interest; and it may require a guarantee or bond to remain in effect until compliance with such conditions has occurred.

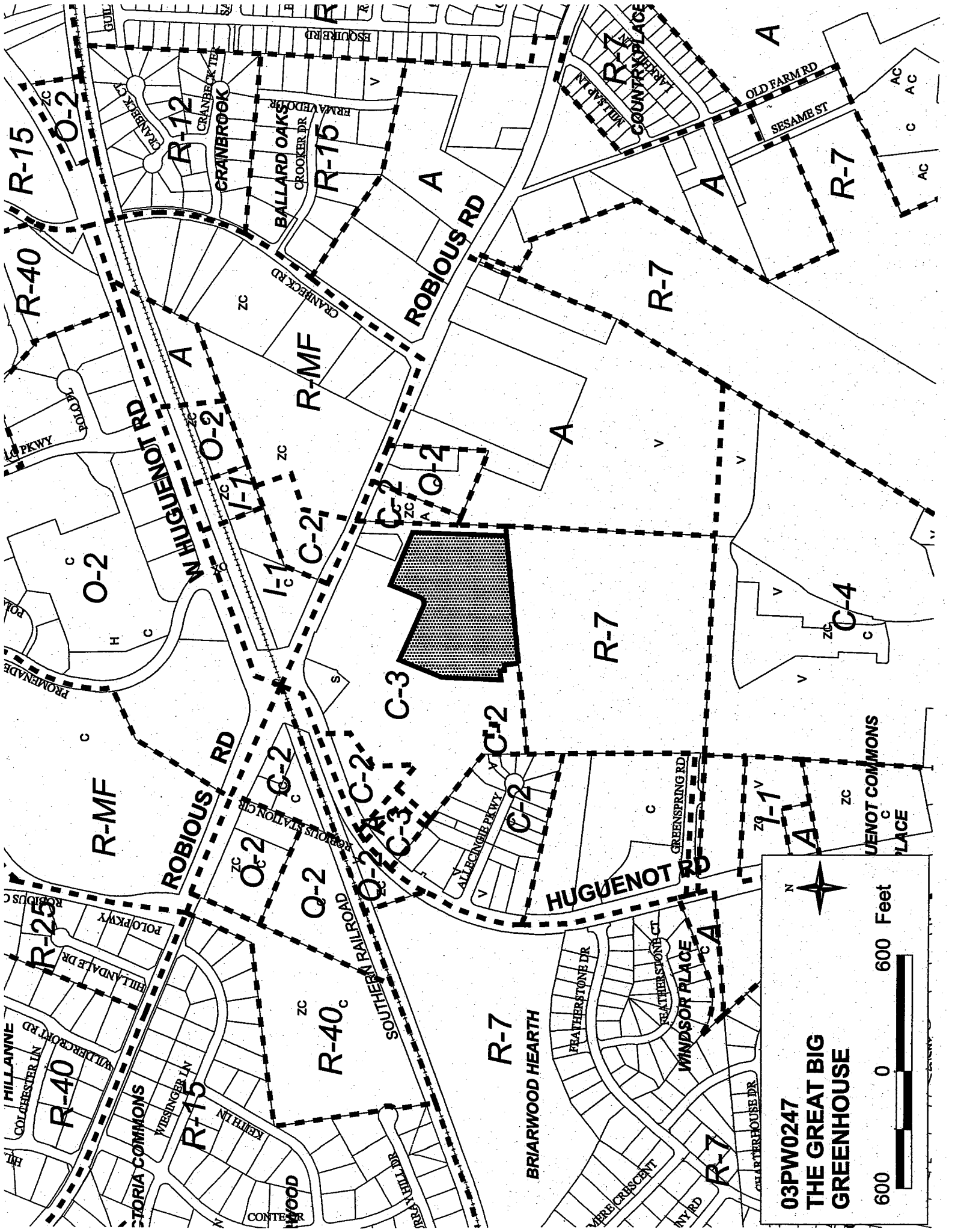
(d) The planning commission shall not grant more than the minimum necessary modification to the appropriate development standard or requirement to resolve the hardship. The planning commission shall not grant a permanent modification to a standard or requirement if a temporary modification will suffice. A temporary modification may be granted if the planning commission determines that permanent compliance will be obtained in a future phase of development.

(e) The planning commission shall not grant a modification to any development standard or requirement if:

- (1) The granting of the modification will constitute the granting of a variance, special exception, conditional use or a rezoning.
- (2) Ordinary financial considerations are the principal reason for the requested modification.
- (3) The modification amends a property-specific condition imposed by the board of supervisors or the board of zoning appeals, unless such condition specifically grants such modification authority to the planning commission.
- (4) The applicant created the condition or situation generating the need for the modification and the applicant has not exhausted all other practicable solutions to the problem, including, but not limited to, the acquisition of additional property, the elimination or redesign of structures, or the reduction of development density.

(f) If the applicant disagrees with the planning commission's final decision, he may file a written appeal with the circuit court within 60 days of that decision. In addition, adjacent property owners may appeal the planning commission's final decision by filing a written appeal with the circuit court within 60 days of that decision. Adjacent property owners' appeals shall be limited to conditions which directly affect the property owners and include access, utility locations, buffers, conditions of zoning, architectural treatment and land use transitions. The court shall fix a reasonable time for hearing the appeal. During the appeal, the director of planning shall not approve any applicable site plan, building permit or record plat for any construction that would or could be affected by the appeal.

(Code 1978, § 21.1-12.1; Ord of 6-12-96, § 1)



**03PW0247**  
**THE GREAT BIG GREENHOUSE**

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600 0 600 Feet